

Stanley Smith Security, Inc. and Reggie D. Simmons, an Employee Petitioner and Pacific Northwest Local 3, International Union of Security Officers

Stanley Smith Security, Inc. Employer-Petitioner and Pacific Northwest Local 3, International Union of Security Officers. Cases 19-RD-1884 and 19-RM-1788

30 April 1984

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER

The National Labor Relations Board, by a three-member panel, has considered objections to an election held 15 April 1983 and the hearing officer's report recommending disposition of them. The Board has reviewed the record in light of the Employer's exceptions and brief, and hereby adopts the hearing officer's recommendation only to the extent consistent herewith.

In his report the hearing officer sustained the part of the Union's Objection 1 concerning the Employer's grant of preelection benefits and recommended that the Board order a new election. We do not accept the hearing officer's finding that the benefits in this case constituted objectionable interference with the election; consequently, we decline to direct a new election.¹

On 29 September 1982 Employee-Petitioner Reggie D. Simmons filed a petition to decertify the Union.² Due to several blocking charges filed by the Union the election was postponed indefinitely. Thereafter, the Regional Director scheduled the election for 15 April 1983.³

About 3 weeks before Christmas 1982, approximately midway between the filing of the decertification petition and the 15 April election, the Employer announced its intention to issue to all employees in the voting unit gift certificates of \$10 toward the purchase of a ham or turkey. The \$10 certificates were actually distributed to the employees just prior to the Christmas holiday. This type of benefit had not been granted by the Employer in previous years.

¹ In the absence of exceptions, we adopt pro forma the hearing officer's recommendations that the remainder of Objection 1 and Objections 2 through 9 be overruled.

² The Employer's petition was filed 16 December 1982 at the request of its employees that the Employer cease bargaining with the Union until an election could be held.

³ The election was conducted pursuant to a Stipulated Election Agreement dated 30 March 1983. The tally of ballots shows 18 for and 27 against the Union, with 4 challenged ballots, an insufficient number to affect the results.

The hearing officer apparently credited the testimony of the Employer's northwest area manager that the decision to issue the gift certificates originated at a higher corporate level, and that the certificates were distributed to all employees in Stanley Smith Security's five-state northwest region, not just to the employees in the voting unit. However, the hearing officer found that the Employer had not made a sufficient affirmative showing that its preelection gifts were not intended to influence the result of the pending election. Based on this finding, he recommended that the election result be set aside. We disagree.

The Board in *Northern Telecom*, 233 NLRB 1104, 1105 (1977), found that where an increase in benefits resulted from a corporatewide decision and was implemented corporatewide in a normal business fashion, election results will not be set aside.⁴

Here the decision to give the gift certificates for Christmas was made by the Employer's regional manager for the Rocky Mountain States. There was no evidence to indicate that he was aware of the pending election petition. As noted above, the gift certificates were issued not only to the employees in the voting unit, but also to all of the Employer's hourly workers that worked in the five Rocky Mountain States. Further, the certificates were issued at a time when the Respondent was unsure when the election would be held because of blocking charges, and the election, in fact, was not held until 3-1/2 months after the certificates were distributed. We also note that the gift certificates were for \$10, a fairly small amount, and that the Employer had not engaged in any other objectionable conduct.

Although there is a presumption of illegal motive for benefits granted prior to an election the Board⁵ generally finds not objectionable benefits granted in the critical period which are pursuant to a past practice or a decision reached prior to the filing of a petition. It has further indicated "where an increase in benefits results from a corporatewide decision and is implemented corporatewide in a normal business fashion, election results will not be set aside [footnote citation omitted]."⁶ Further, it has, depending on the surrounding circumstances, also found not objectionable the granting of benefits which were neither pursuant to a past practice

⁴ Contrary to the hearing officer's interpretation of the case, the Board's holding was not based on the fact that the decision concerning the benefits was made prior to the petition being filed, but instead on its determination that the granting of benefits was not calculated to and did not interfere with the employees' freedom of choice.

⁵ Chairman Dotson finds it unnecessary to rely on any presumptions.

⁶ *Northern Telecom, Inc.*, 233 NLRB at 1105.

nor to a decision made before the petition has been filed.⁷

Having considered the circumstances surrounding the issuance of the gift certificates, we find that their issuance was not calculated to interfere with the election. Accordingly, we reject the hearing officer's recommendation, overrule Objection 1 in its

entirety, and order the certification of the results of the 15 April election.

CERTIFICATION OF RESULTS OF ELECTION

IT IS CERTIFIED that a majority of the valid ballots have not been cast for Pacific Northwest Local 3, International Union of Security Officers, and that it is not the the exclusive representative of these bargaining unit employees.

⁷ See, e.g., *Model Dye Southern*, 246 NLRB 589 (1979).